THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 15907 of 1997

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Dated 31/08/2005

Between:

M/s. Lakshmi Ganapathy Dall Mill, Rep By Its Managing Partner,Sri A.Satyanarayana.
Rajahmundry.

..... PETITIONER

AND

The Commercial Tax Officer,
Rajahmundry.

.....RESPONDENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 15907 of 1997

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Oral Order: (Per Sri SAR,J)

This writ petition is filed by the petitioner seeking writ of Mandamus directing the respondent to refund the sales tax amount of Rs.83,734/- and Rs.20,723/- aggregating to Rs.1,04,457/- relating to the assessment years 1984-85 and 1985-86 respectively being the refund in terms of Rule 27-A of the A.P.G.S.T.Rules (for short 'the Rules').

The petitioner is a dealer registered both under the provisions of the A.P. General Sales Tax Act, 1957 as well as the Central Sales Tax Act, 1956 carrying on business in pulses and is on the rolls of the respondent. During the assessment years 1984-85 and 1985-86, the petitioner purchased green gram and red gram taxable at the rate of 4% and paid the tax as prescribed under the Act. According to the petitioner, the purchases of these pulses were effected in the State from both registered dealers and ryots. Insofar as the purchases made from the registered dealers within the State are concerned, tax was paid by the registered dealers from whom the petitioner purchased. Therefore, the petitioner who in turn affected the interstate sales of the same goods is entitled for refund. Therefore, the petitioner made an application in terms of Rule 27-A of the A.P.G.S.T. Rules. As refund of the said tax was not ordered by the respondent, the petitioner has come up with the present writ petition.

It is also the case of the petitioner that the application for refund of the tax, as required in terms of the rules, was made within the stipulated period of three months, which is evidenced by the acknowledgement book maintained, by the petitioner.

A counter is filed on behalf of the respondent disputing the claim. In the counter it is specifically denied that any application has been made by the petitioner, as claimed. In the absence of any application claiming refund of the tax, the petitioner is not entitled to any relief as claimed in the present writ petition. Therefore sought for the dismissal of the writ petition.

The petitioner is claiming the relief of refund of the tax, which it is entitled to in terms of Rule 27-A of the Rules. The application is stated to have been made as stipulated under the Rules but the very claim of the petitioner that it made an application is disputed by the respondent and in the absence of any accepted proof that such an application has been made by the petitioner, this court is not in a position to grant any relief to the petitioner. On that simple ground, the writ petition fails. The same is accordingly dismissed. No costs.

(B.SUDERSHAN REDDY,J)

dated 31.8.2005

(S.ANANDA REDDY,J)

msv